



February 22, 2001

HOUSE BILL No. 1783

DIGEST OF HB 1783 (Updated February 21, 2001 11:32 AM - DI 96)

Citations Affected: IC 22-4.

Synopsis: Family and medical leave unemployment compensation. Establishes family and medical leave unemployment compensation. Provides that entitlement to family and medical leave unemployment compensation is available to employees of an employer who employs fifty or more employees. Allows insured workers who take more than one week of job protected leave under 29 U.S.C. 2601 or who leave insured work for reasons that meet the criteria for family and medical leave under 29 U.S.C. 2612, but who are not eligible for a leave under 29 U.S.C. 2601, to receive a maximum of 12 weeks of family and medical leave unemployment compensation. Provides that payment of family and medical leave unemployment compensation is not charged against the experience or reimbursable accounts of individual employers.

Effective: January 1, 2002.

Lawson L, Liggett

January 17, 2001, read first time and referred to Committee on Labor and Employment.
February 21, 2001, amended, reported — Do Pass.

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HB 1783—LS 7906/DI 102+



February 22, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1783

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-1-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2002]: Sec. 1. **(a)** As a guide to the
3 interpretation and application of this article, the public policy of this
4 state is declared to be as follows: Economic insecurity due to
5 unemployment is declared hereby to be a serious menace to the health,
6 morale, and welfare of the people of this state and to the maintenance
7 of public order within this state. Protection against this great hazard of
8 our economic life can be provided in some measure by the required and
9 systematic accumulation of funds during periods of employment to
10 provide benefits to the unemployed during periods of unemployment
11 and by encouragement of desirable stable employment. The enactment
12 of this article to provide for payment of benefits to persons unemployed
13 through no fault of their own, to encourage stabilization in
14 employment, ~~and~~ to provide for integrated employment and training
15 services in support of state economic development programs, and to
16 provide maximum job training and employment opportunities for the
17 unemployed, underemployed, the economically disadvantaged,

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dislocated workers, and others with substantial barriers to employment, is, therefore, essential to public welfare, and the same is declared to be a proper exercise of the police powers of the state. To further this public policy, the state, through its department of workforce development, will maintain close coordination among all federal, state, and local agencies whose mission affects the employment or employability of the unemployed and underemployed.

(b) This article is to provide for payment of benefits to employees who desire to take more than one (1) week of unpaid job protected leave under 29 U.S.C. 2601 or who separate from employment voluntarily for reasons that meet the criteria for leave under 29 U.S.C. 2612, but who are not eligible for a leave under 29 U.S.C. 2601.

SECTION 2. IC 22-4-2-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 34. (a) With respect to benefits for weeks of unemployment beginning after August 13, 1981, "extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator and ends with:

- (1) the third week after the first week for which there is a state "off" indicator; or
- (2) the thirteenth consecutive week of such period.

(b) However, no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(c) There is a state "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this article:

- (1) equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two (2) calendar years; and
- (2) equaled or exceeded:
 - (A) with respect to benefits for weeks of unemployment beginning before September 25, 1982, four percent (4%); and
 - (B) with respect to benefits for weeks of unemployment beginning after September 25, 1982, five percent (5%).

However, with respect to benefits for weeks of unemployment beginning after December 31, 1977, the determination of whether there has been a state "on" or "off" indicator beginning or ending any

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1 extended benefit period shall be made under this subsection as if it did
 2 not contain subdivision (1) and the insured unemployment rate in
 3 subdivision (2) were:

- 4 (A) with respect to benefits for weeks of unemployment
 5 beginning before September 25, 1982, five percent (5%); and
 6 (B) with respect to benefits for weeks of unemployment
 7 beginning after September 25, 1982, six percent (6%).

8 Any week for which there would otherwise be a state "on" indicator
 9 shall continue to be such a week and may not be determined to be a
 10 week for which there is a state "off" indicator.

11 (d) There is a state "off" indicator for this state for a week if the
 12 commissioner determines, in accordance with the regulations of the
 13 United States Secretary of Labor, that for the period consisting of such
 14 week and the immediately preceding twelve (12) weeks, the rate of
 15 insured unemployment (not seasonally adjusted) under this article:

- 16 (1) was less than one hundred twenty percent (120%) of the
 17 average of such rates for the corresponding 13-week period
 18 ending in each of the preceding two (2) calendar years; or
 19 (2) was less than:

- 20 (A) with respect to benefits for weeks of unemployment
 21 beginning before September 25, 1982, four percent (4%); and
 22 (B) with respect to benefits for weeks of unemployment
 23 beginning after September 25, 1982, five percent (5%).

24 (e) With respect to benefits for weeks of unemployment beginning
 25 after August 13, 1981, "rate of insured unemployment," for purposes
 26 of subsections (e) and (f), means the percentage derived by dividing:

- 27 (1) the average weekly number of individuals filing claims for
 28 regular compensation in this state for weeks of unemployment
 29 with respect to the most recent 13-consecutive week period (as
 30 determined by the board on the basis of this state's reports to the
 31 United States Secretary of Labor); by
 32 (2) the average monthly employment covered under this article
 33 for the first four (4) of the most recent six (6) completed calendar
 34 quarters ending before the end of such 13-week period.

35 (f) "Regular benefits" means benefits payable to an individual under
 36 this article or under the law of any other state (including benefits
 37 payable to federal civilian employees and to ex-servicemen pursuant to
 38 5 U.S.C. 8501 through 8525) other than extended benefits. "Additional
 39 benefits" means benefits other than extended benefits **and which that**
 40 are totally financed by a state payable to exhaustees by reason of
 41 conditions of high unemployment or by reason of other special factors
 42 under the provisions of any state law. If extended compensation is



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payable to an individual by this state and additional compensation is payable to ~~him~~ **the individual** for the same week by any state, the individual may elect which of the two (2) types of compensation to claim.

(g) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) payable to an individual under the provisions of this article for weeks of unemployment in the individual's "eligibility period". Pursuant to Section 3304 of the Internal Revenue Code extended benefits are not payable to interstate claimants filing claims in an agent state which is not in an extended benefit period, against the liable state of Indiana when the state of Indiana is in an extended benefit period. This prohibition does not apply to the first two (2) weeks claimed that would, but for this prohibition, otherwise be payable. However, only one such two (2) week period will be granted on an extended claim. Notwithstanding any other provisions of this chapter, with respect to benefits for weeks of unemployment beginning after October 31, 1981, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this clause, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(h) "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit period which begin in an extended benefit period and, if the individual's benefit period ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period.

(i) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(1) has received, prior to such week, all of the regular benefits including dependent's allowances that were available to the individual under this article or under the law of any other state (including benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. 8501 through 8525) in the individual's current benefit period that includes such week. However, for the purposes of this subsection, an individual shall be deemed to have received all of the regular benefits that were available to the individual although as a result of a pending appeal

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with respect to wages that were not considered in the original monetary determination in the individual's benefit period or although a nonmonetary decision denying benefits is pending, the individual may subsequently be determined to be entitled to added regular benefits;

(2) may be entitled to regular benefits with respect to future weeks of unemployment but such benefits are not payable with respect to such week of unemployment by reason of seasonal limitations in any state unemployment insurance law; or

(3) having had the individual's benefit period expire prior to such week, has no, or insufficient, wages on the basis of which the individual could establish a new benefit period that would include such week;

and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor, and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada. ~~but~~ **However**, if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, ~~he~~ **the individual** is considered an exhaustee.

(j) "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code.

(k) Subsections (c), (d), and (e) do not include any payments made to recipients of family and medical leave unemployment compensation for purposes of the computations concerning "on" and "off" indicators and "rate of insured unemployment".

(l) Subsections (h) and (i) do not include any weeks of compensation for family and medical leave unemployment compensation within the eligibility period.

SECTION 3. IC 22-4-2-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: **Sec. 39. As used in this article, "family and medical leave unemployment compensation" means the payment of compensation from the fund for an insured worker who:**

(1) is on leave under 29 U.S.C. 2601; or

(2) has left employment from insured work for reasons that meet the criteria for family and medical leave under 29 U.S.C. 2612, but who is not eligible for leave under 29 U.S.C. 2601.



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SECTION 4. IC 22-4-5-1 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) "Deductible income"
 wherever used in this article, means income deductible from the weekly
 benefit amount of an individual in any week, and shall include, but
 shall not be limited to:

(1) remuneration for services from employing units, whether or
 not such remuneration is subject to contribution under this article,
 except as provided in subsection (c);

(2) dismissal pay;

(3) vacation pay;

(4) pay for idle time;

(5) holiday pay;

(6) sick pay;

(7) traveling expenses granted to an individual by an employing
 unit and not fully accounted for by such individual;

(8) net earnings from self-employment;

(9) payments in lieu of compensation for services;

(10) awards by the National Labor Relations Board of additional
 pay, back pay or for loss of employment, or any such payments
 made under an agreement entered into by an employer, a union,
 and the National Labor Relations Board; ~~or~~

(11) payments made to an individual by an employing unit
 pursuant to the terms of the Fair Labor Standards Act (Federal
 Wage and Hour Law, 29 U.S.C. 201 et seq.); **or**

**(12) payments made to an individual from an employing unit
 as a direct result of a leave under 29 U.S.C. 2601 for which the
 individual has applied for family and medical leave
 unemployment compensation.**

(b) Deductible income shall not include the first three dollars (\$3),
 or twenty percent (20%) of the claimant's weekly benefit amount
 rounded to the next lowest dollar, whichever is the larger, of
 remuneration paid or payable to an individual with respect to any week
 by other than his base period employer or employers.

(c) For the purpose of deductible income only, remuneration for
 services from employing units does not include bonuses, gifts, or prizes
 awarded to an employee by an employing unit.

SECTION 5. IC 22-4-5-2 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) Payments in lieu of a
 vacation awarded to an employee by an employing unit shall be
 considered as deductible income in, and with respect to, the week in
 which the same is actually paid. The payment of accrued vacation pay,
 dismissal pay, or severance pay to an individual:



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- 1 (1) separated from employment by an employing unit; or
 2 (2) temporarily or permanently separated from employment:
 3 (A) on a leave under 29 U.S.C. 2601; or
 4 (B) for reasons that meet the criteria for family and
 5 medical leave under 29 U.S.C. 2612, but who is not eligible
 6 for leave under 29 U.S.C. 2601;

7 shall be allocated to the period of time for which such payment is made
 8 immediately following the date of separation, and an individual
 9 receiving such payments shall not be deemed unemployed with respect
 10 to a week during which such allocated deductible income equals or
 11 exceeds the weekly benefit amount of his claim. Pay for idle time; sick
 12 pay; traveling expenses granted to an individual by an employing unit
 13 and not fully accounted for by such individual; earnings from
 14 self-employment; awards by the National Labor Relations Board of
 15 additional pay, back pay, or for loss of employment, or any such
 16 payments made under an agreement entered into by an employer, a
 17 union, and the National Labor Relations Board; and payments to an
 18 employee by an employing unit made pursuant to the terms and
 19 provisions of the Fair Labor Standards Act shall be deemed to
 20 constitute deductible income with respect to the week or weeks for
 21 which such payments are made. However, if such payments made
 22 pursuant to the provisions of the National Labor Relations Act or of the
 23 Fair Labor Standards Act or through agreement with a union are not,
 24 by the terms of the order or agreement under which said payments are
 25 made, allocated to any designated week or weeks, then, and in such
 26 cases, such payments shall be considered as deductible income in, and
 27 with respect to, the week in which the same is actually paid.

28 (b) Holiday pay which is paid not later than the normal pay day for
 29 the pay period in which the holiday occurred shall be deemed to
 30 constitute deductible income with respect to the week for which such
 31 payments are made. Holiday pay which is paid after the normal pay day
 32 for the pay period in which the holiday occurred shall be considered as
 33 deductible income in, and with respect to, the week in which the same
 34 is actually paid.

35 (c) Payment of vacation pay, if made prior to the vacation period or
 36 not later than the normal pay day for the pay period in which the
 37 vacation was taken, shall be deemed deductible income with respect to
 38 the week or weeks falling within such vacation period for which
 39 vacation payment is made. Payment of vacation pay made subsequent
 40 to the normal pay day for the pay period in which the vacation was
 41 taken shall be deemed deductible income with respect to the week in
 42 which such payment is made.



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SECTION 6. IC 22-4-7-2 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2002]: Sec. 2. "Employer" also means:

(a) Any employing unit whether or not an employing unit at the time of the acquisition which acquires the organization, trade, or business within this state of another which at the time of such acquisition is an employer subject to this article, and any employing unit whether or not an employing unit at the time of the acquisition which acquires substantially all the assets within this state of such an employer used in or in connection with the operation of such trade or business, if the acquisition of substantially all such assets of such trade or business results in or is used in the operation or continuance of an organization, trade, or business.

(b) Any employing unit (whether or not an employing unit at the time of acquisition) which acquires a distinct and segregable portion of the organization, trade, or business within this state of another employing unit which at the time of such acquisition is an employer subject to this article only if the employment experience of the disposing employing unit combined with the employment of its predecessor or predecessors would have qualified such employing unit under ~~IC 22-4-7-1~~ **section 1 of this chapter** if the portion acquired had constituted its entire organization, trade, or business and the acquisition results in the operation or continuance of an organization, trade, or business.

(c) Any employing unit which, having become an employer under ~~IC 22-4-7-1, 22-4-7-2(a), 22-4-7-2(b), 22-4-7-2(d), 22-4-7-2(f), or 22-4-7-2(h)~~, **section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter**, has not ceased to be an employer by compliance with the provisions of IC 22-4-9-2 and IC 22-4-9-3.

(d) For the effective period of its election pursuant to IC 22-4-9-4 or 22-4-9-5, any other employing unit which has elected to become fully subject to this article;

(e) Any employing unit for which service in employment as defined in IC 22-4-8-2(l) is performed. In determining whether an employing unit for which service other than agricultural labor is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or the employment of an employee performing service in agricultural labor after December 31, 1977, may not be taken into account. If an employing unit is determined an employer of agricultural labor, the employing unit shall be determined an employer for the purposes of section 1 of this chapter.

(f) Any employing unit not an employer by reason of any other paragraph of ~~IC 22-4-7-2(a) through 22-4-7-2(e)~~ **section 2(a) through**



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1 **2(e) of this chapter** inclusive, for which within either the current or
 2 preceding calendar year services in employment are or were performed
 3 with respect to which such employing unit is liable for any federal tax
 4 against which credit may be taken for contributions required to be paid
 5 into a state unemployment compensation fund; or which, as a condition
 6 for approval of this article for full tax credit against the tax imposed by
 7 the Federal Unemployment Tax Act, is required, pursuant to such Act,
 8 to be an "employer" under this article; however, an employing unit
 9 subject to contribution solely because of the terms of this subsection
 10 may file a written application to cover and insure his employees under
 11 the unemployment compensation law of another jurisdiction. Upon
 12 approval of such application by the board, the employing unit shall not
 13 be deemed to be an employer and such service shall not be deemed
 14 employment under this article.

15 (g) Any employing unit for which service in employment, as defined
 16 in IC 22-4-8-2(i) is performed after December 31, 1971 and subsequent
 17 to December 31, 1977, any employing unit for which service in
 18 employment is performed, as defined in IC 22-4-8-2(i)(1).

19 (h) Any employing unit for which service in employment, as defined
 20 in IC 22-4-8-2(j) is performed after December 31, 1971.

21 (i) Any employing unit for which service in employment as defined
 22 in IC 22-4-8-2(m) is performed. In determining whether an employing
 23 unit for which service other than domestic service is also performed is
 24 an employer under sections 1 or 2 of this chapter, the wages earned or
 25 the employment of an employee performing domestic service after
 26 December 31, 1977, may not be taken into account.

27 **(j) For purposes of entitlement to family and medical leave**
 28 **unemployment compensation, as set forth in IC 22-4-12-1(2), the**
 29 **term includes an employing unit engaged in commerce or in any**
 30 **industry or activity affecting commerce who employs fifty (50) or**
 31 **more employees for each working day during each of twenty (20)**
 32 **or more calendar workweeks in the current or preceding year.**

33 SECTION 7. IC 22-4-9-6 IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JANUARY 1, 2002]: Sec. 6. **(a)** Every employer **that is**
 35 subject to this article or ~~who~~ **that** has ceased to be subject to this article
 36 pursuant to section 2 of this chapter shall post and maintain printed
 37 notices thereof on its premises of such design, in such numbers, and at
 38 such places as the board may determine to be necessary to give such
 39 notice to persons in its service and may furnish for such purposes,
 40 **including a display poster of the right to family and medical leave**
 41 **unemployment benefits under IC 22-4-14.5.** Such employer shall
 42 also cause to be distributed to employees any booklets, pamphlets,



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1 leaflets, or other literature or materials supplied and furnished to such
 2 employer by the department ~~and which that~~ contain instructions to
 3 employees on the filing of claims or ~~which that~~ relate to the rights of
 4 employees under this article, **including a description of rights under**
 5 **IC 22-4-14.5**, and are deemed by the board to promote the proper and
 6 efficient administration of this article.

7 **(b) Every employer subject to this article shall provide to every**
 8 **employee at the beginning of employment, and whenever an**
 9 **employee requests a leave for reasons that meet the criteria for**
 10 **family and medical leave under 29 U.S.C. 2601, a description of the**
 11 **the employee's rights under IC 22-4-14.5.**

12 SECTION 8. IC 22-4-11-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) For the
 14 purpose of charging employers' experience or reimbursable accounts
 15 with regular benefits paid subsequent to July 3, 1971, to any eligible
 16 individual but except as provided in IC 22-4-22 and subsection (f),
 17 such benefits paid shall be charged proportionately against the
 18 experience or reimbursable accounts of ~~his the~~ employers in ~~his the~~
 19 **individual's** base period (on the basis of total wage credits established
 20 in such base period) against whose accounts the maximum charges
 21 specified in this section shall not have been previously made. Such
 22 charges shall be made in the inverse chronological order in which the
 23 wage credits of such individuals were established. However, when an
 24 individual's claim has been computed for the purpose of determining
 25 ~~his the individual's~~ regular benefit rights, maximum regular benefit
 26 amount, and the proportion of such maximum amount to be charged to
 27 the experience or reimbursable accounts of respective chargeable
 28 employers in the base period, the experience or reimbursable account
 29 of any employer charged with regular benefits paid shall not be
 30 credited or reccredited with any portion of such maximum amount
 31 because of any portion of such individual's wage credits remaining
 32 uncharged at the expiration of ~~his the individual's~~ benefit period. The
 33 maximum so charged against the account of any employer shall not
 34 exceed twenty-eight percent (28%) of the total wage credits of such
 35 individual with each such employer with which wage credits were
 36 established during such individual's base period. Benefits paid under
 37 provisions of IC 22-4-22-3 in excess of the amount that the claimant
 38 would have been monetarily eligible for under other provisions of this
 39 article shall be paid from the fund and not charged to the experience
 40 account of any employer; however, this exception shall not apply to
 41 those employers electing to make payments in lieu of contributions
 42 who shall be charged for all benefit payments ~~which that~~ are

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1 attributable to service in their employ. Irrespective of the twenty-eight
 2 percent (28%) maximum limitation provided for in this section, any
 3 extended benefits paid to an eligible individual based on service with
 4 a governmental entity of this state or its political subdivisions shall be
 5 charged to the experience or reimbursable accounts of the employers,
 6 and fifty percent (50%) of any extended benefits paid to an eligible
 7 individual shall be charged to the experience or reimbursable accounts
 8 of ~~his~~ the employers in ~~his~~ the individual's base period, other than
 9 governmental entities of this state or its political subdivisions, in the
 10 same proportion and sequence as are provided in this section for
 11 regular benefits paid. Additional benefits paid under IC 22-4-12-4(c)
 12 shall:

13 (1) be paid from the fund; and

14 (2) not be charged to the experience account or the reimbursable
 15 account of any employer.

16 **Family and medical leave unemployment compensation paid to an**
 17 **eligible individual in accordance with IC 22-4-14.5 may not be**
 18 **charged against the experience or reimbursable accounts of**
 19 **individual employers in the base period.**

20 (b) If the aggregate of wages paid to an individual by two (2) or
 21 more employers during the same calendar quarter exceeds the
 22 maximum wage credits (as defined in IC 22-4-4-3) then the experience
 23 or reimbursable account of each such employer shall be charged in the
 24 ratio which the amount of wage credits from such employer bears to the
 25 total amount of wage credits during the base period.

26 (c) When wage records show that an individual has been employed
 27 by two (2) or more employers during the same calendar quarter of the
 28 base period but do not indicate both that such employment was
 29 consecutive and the order of sequence thereof, then and in such cases
 30 it shall be deemed that the employer with whom the individual
 31 established a plurality of wage credits in such calendar quarter is the
 32 most recent employer in such quarter and its experience or
 33 reimbursable account shall be first charged with benefits paid to such
 34 individual. The experience or reimbursable account of the employer
 35 with whom the next highest amount of wage credits ~~were~~ was
 36 established shall be charged secondly and the experience or
 37 reimbursable accounts of other employers during such quarters, if any,
 38 shall likewise be charged in order according to plurality of wage credits
 39 established by such individual.

40 (d) Except as provided in subsection (f), if an individual:

41 (1) voluntarily leaves an employer without good cause in
 42 connection with the work; or



(2) is discharged from an employer for just cause;
 wage credits earned with the employer from whom the employee has
 separated under these conditions shall be used to compute the
 claimant's eligibility for benefits, but charges based on such wage
 credits shall be paid from the fund and not charged to the experience
 account of any employer. However, this exception shall not apply to
 those employers who elect to make payments in lieu of contributions,
 who shall be charged for all benefit payments ~~which~~ **that** are
 attributable to service in their employ.

(e) Any nonprofit organization which elects to make payments in
 lieu of contributions into the unemployment compensation fund as
 provided in this article is not liable to make the payments with respect
 to the benefits paid to any individual whose base period wages include
 wages for previously uncovered services as defined in IC 22-4-4-4, nor
 is the experience account of any other employer liable for charges for
 benefits paid the individual to the extent that the unemployment
 compensation fund is reimbursed for these benefits pursuant to Section
 121 of P.L.94-566. Payments which otherwise would have been
 chargeable to the reimbursable or contributing employers shall be
 charged to the fund.

(f) If an individual:

- (1) earns wages during ~~his~~ **the individual's** base period through
 employment with two (2) or more employers concurrently;
- (2) is laid off from work by one (1) of the employers; and
- (3) continues to work for one (1) or more of the other employers
 after the end of the base period and continues to work during the
 applicable benefit year on substantially the same basis as during
 the base period;

wage credits earned with the base period employers shall be used to
 compute the claimant's eligibility for benefits, but charges based on the
 wage credits from the employer who continues to employ the individual
 shall be charged to the experience or reimbursable account of the
 employer who laid the claimant off.

(g) Subsection (f) does not affect the eligibility of a claimant who
 otherwise qualifies for benefits nor the computation of ~~his~~ **the**
claimant's benefits.

SECTION 9. IC 22-4-12-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. Benefits
 designated as unemployment compensation benefits shall become
 payable from the fund to any individual who:

- (1) is or becomes unemployed; **or**
- (2) is totally unemployed and:



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1 (A) on a leave under 29 U.S.C. 2601; or
 2 (B) having left employment from insured work for reasons
 3 that meet the criteria for family and medical leave under
 4 29 U.S.C. 2612, but who is not eligible for leave under 29
 5 U.S.C. 2601;

6 and is eligible for benefits under the terms of this article. All benefits
 7 shall be paid through employment offices maintained and operated by
 8 this state or such other agencies as the board by rule may designate at
 9 such times and in such manner as the board may prescribe, provided
 10 that the board may prescribe rules to provide for the payment of
 11 benefits due and payable on executed vouchers to persons since
 12 deceased. Benefits so due and payable may be paid to the legal
 13 representative, dependents, or next of kin of the deceased as are found
 14 to be entitled thereto, which rules need not conform with the laws of
 15 the state governing decedent estates, and every such payment shall be
 16 deemed a valid payment to the same extent as if made to the legal
 17 representative of the deceased.

18 SECTION 10. IC 22-4-12-3 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. **Except for**
 20 **those individuals who are entitled to family and medical leave**
 21 **unemployment compensation**, the weekly benefit amount of any
 22 otherwise eligible individual shall be reduced by one-third (1/3)
 23 thereof, computed to the next lower multiple of one dollar (\$1.00), for
 24 each normal work day during which such individual is unable to work
 25 or is unavailable for work.

26 SECTION 11. IC 22-4-12-4 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4. (a) Benefits
 28 shall be computed upon the basis of wage credits of an individual in ~~his~~
 29 **the individual's** base period. Wage credits shall be reported by the
 30 employer and credited to the individual in the manner prescribed by the
 31 board. With respect to initial claims filed for any week beginning on
 32 and after July 4, 1959, and before July 7, 1991, the maximum total
 33 amount of benefits payable to any eligible individual during any benefit
 34 period shall not exceed twenty-six (26) times ~~his the individual's~~
 35 weekly benefit, or twenty-five percent (25%) of ~~his the individual's~~
 36 wage credits with respect to ~~his the individual's~~ base period,
 37 whichever is the lesser. With respect to initial claims, **excluding claims**
 38 **for family and medical leave unemployment compensation**, filed for
 39 any week beginning on and after July 7, 1991, the maximum total
 40 amount of benefits payable to any eligible individual during any benefit
 41 period shall not exceed twenty-six (26) times the individual's weekly
 42 benefit, or twenty-eight percent (28%) of the individual's wage credits



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with respect to the individual's base period, whichever is less. If such maximum total amount of benefits is not a multiple of one dollar (\$1), it shall be computed to the next lower multiple of one dollar (\$1).

(b) **For initial claims filed for a week beginning after December 31, 2001, for family and medical leave unemployment compensation, the maximum total amount of benefits payable to an eligible individual during a benefit period may not exceed twelve (12) times the individual's weekly benefit, or twenty-eight percent (28%) of the individual's wage credits for the individual's base period, whichever is less. If the maximum total amount of benefits is not a multiple of one dollar (\$1), it shall be computed to the next lower multiple of one dollar (\$1).**

(c) The total extended benefit amount payable to any eligible individual with respect to ~~his~~ **the individual's** applicable benefit period shall be fifty percent (50%) of the total amount of regular benefits (including dependents' allowances) ~~which that~~ were payable to ~~him~~ **the individual** under this article in the applicable benefit year, or thirteen (13) times the weekly benefit amount (including dependents' allowances) which was payable to ~~him~~ **the individual** under this article for a week of total unemployment in the applicable benefit year, whichever is the lesser amount.

~~(c)~~ **(d)** This subsection applies to individuals who file a disaster unemployment claim or a state unemployment insurance claim after June 1, 1990, and before June 2, 1991, or during another time specified in another state statute. An individual is entitled to thirteen (13) weeks of additional benefits, as originally determined, if:

(1) the individual has established:

(A) a disaster unemployment claim under the Stafford Disaster Relief and Emergency Assistance Act; or

(B) a state unemployment insurance claim as a direct result of a major disaster;

(2) all regular benefits and all disaster unemployment assistance benefits:

(A) have been exhausted by the individual; or

(B) are no longer payable to the individual due to the expiration of the disaster assistance period; and

(3) the individual remains unemployed as a direct result of the disaster.

SECTION 12. IC 22-4-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) An unemployed individual is eligible to receive benefits with respect to any week only if the individual has:



(1) registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the board by rule adopts; and

(2) subsequently reported with the frequency and in the manner, either in person or in writing, that the board by rule adopts.

However, subdivision (1) does not apply to a recipient of family and medical leave unemployment compensation.

(b) Failure to comply with subsection (a) shall be excused by the commissioner or the commissioner's authorized representative upon a showing of good cause therefor. The board shall by rule waive or alter the requirements of this section as to such types of cases or situations with respect to which the commissioner finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this article.

(c) The department shall provide job counseling or training to an individual who remains unemployed for at least four (4) weeks. The manner and duration of the counseling shall be determined by the board.

(d) The board may by rule prescribe procedures for the issuance of unemployment compensation warrants from the local office.

SECTION 13. IC 22-4-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. (a) **This section does not apply to a recipient of family and medical leave unemployment compensation.**

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

(1) is physically and mentally able to work;

(2) is available for work;

(3) is found by the department to be making an effort to secure full-time work; and

(4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the commissioner, unless the commissioner determines that:

(A) the individual has completed the reemployment services; or

(B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the board through rule ~~which~~ **that** shall take into consideration whether such

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individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

~~(b)~~ (c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment, or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and holds himself available for suitable full-time work with the individual's last employer, or holds himself available for any other full-time employment deemed suitable.

~~(c)~~ (d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The board shall by rule prescribe the conditions under

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1 which approval of such training will be granted.

2 SECTION 14. IC 22-4-14.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2002]:

5 **Chapter 14.5. Family and Medical Leave Unemployment**
6 **Compensation**

7 **Sec. 1. The provisions of this chapter provide for payment of**
8 **benefits not otherwise available under an agreement described in**
9 **section 2 of this chapter to employees who desire to take more than**
10 **one (1) week of unpaid job protected leave under 29 U.S.C. 2601 or**
11 **who separate from employment voluntarily for reasons that meet**
12 **the criteria for leave under 29 U.S.C. 2612, but who are not eligible**
13 **for leave under 29 U.S.C. 2601.**

14 **Sec. 2. The provisions of this chapter do not reduce or alter any**
15 **greater rights or benefits to which an individual may be entitled**
16 **under the terms of a collective bargaining agreement or any other**
17 **employment agreement between the employee and the employer.**

18 **Sec. 3. The provisions of this chapter do not require an**
19 **employer not covered by 29 U.S.C. 2601 to provide a job protected**
20 **leave to an employee.**

21 **Sec. 4. Benefits designated as family and medical leave**
22 **unemployment compensation are payable from the fund to an**
23 **insured worker who becomes totally unemployed because the**
24 **worker is on leave under 29 U.S.C. 2601 or has left employment**
25 **from insured work for reasons that meet the criteria for family and**
26 **medical leave under 29 U.S.C. 2612, but who is not eligible for**
27 **leave under 29 U.S.C. 2601.**

28 **Sec. 5. Benefits are:**

- 29 (1) payable from the fund to a worker as provided by
- 30 IC 22-4-12-1;
- 31 (2) payable at the rate provided under IC 22-4-12-2;
- 32 (3) not affected by IC 22-4-12-3;
- 33 (4) not to exceed twelve (12) times an individual's weekly
- 34 benefit as provided under IC 22-4-12-4;
- 35 (5) not to be charged against the experience or reimbursable
- 36 accounts of any employer in the base period, as set forth in
- 37 IC 22-4-11-1;
- 38 (6) not to be denied for the failure of a recipient to register for
- 39 work as required by IC 22-4-14-2;
- 40 (7) not to be denied for the failure of an individual to meet any
- 41 of the requirements of IC 22-4-14-3(b); and
- 42 (8) not to be denied or terminated because of the failure of the



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1 applicant or recipient to apply for or accept available and
2 suitable employment as set forth in IC 22-4-15-2.

3 **Sec. 6. An individual is not subject to disqualification under**
4 **IC 22-4-15-1 if the individual:**

5 (1) is on a leave under 29 U.S.C. 2601; or

6 (2) has left employment from insured work for reasons that
7 meet the criteria for family and medical leave under 29 U.S.C.
8 2612, but who is not eligible for leave under 29 U.S.C. 2601;
9 and has applied for family and medical leave unemployment
10 compensation.

11 **Sec. 7. An individual who receives benefits under this chapter to**
12 **which the individual is not entitled is liable for repayment of the**
13 **overpayment to the commissioner as provided in IC 22-4-13-1.**

14 **Sec. 8. The board shall adopt rules under IC 4-22-2 to**
15 **implement the administration of this chapter.**

16 SECTION 15. IC 22-4-15-1 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. (a) With
18 respect to benefit periods established on and after July 6, 1980, an
19 individual who has voluntarily left his employment without good cause
20 in connection with the work or who was discharged from his
21 employment for just cause is ineligible for waiting period or benefit
22 rights for the week in which the disqualifying separation occurred and
23 until he the individual has earned remuneration in employment equal
24 to or exceeding the weekly benefit amount of his the individual's
25 claim in each of eight (8) weeks. If the qualification amount has not
26 been earned at the expiration of an individual's benefit period, the
27 unearned amount shall be carried forward to an extended benefit period
28 or to the benefit period of a subsequent claim.

29 (b) When it has been determined that an individual has been
30 separated from employment under disqualifying conditions as outlined
31 in this section, the maximum benefit amount of his the individual's
32 current claim, as initially determined, shall be reduced by twenty-five
33 percent (25%). If twenty-five percent (25%) of the maximum benefit
34 amount is not an even dollar amount, the amount of such reduction will
35 be raised to the next higher even dollar amount. When twenty-five
36 percent (25%) of the maximum benefit amount, as initially determined,
37 exceeds the unpaid balance remaining in the claim, such reduction will
38 be limited to the unpaid balance.

39 (c) The disqualifications provided in this section shall be subject to
40 the following modifications:

41 (1) An individual shall not be subject to disqualification because
42 of separation from his prior employment if the individual:

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- 1 (A) ~~he~~ left to accept with another employer previously secured
 2 permanent full-time work which offered reasonable
 3 expectation of betterment of wages or working conditions and
 4 thereafter was employed on said job for not less than ten (10)
 5 weeks;
- 6 (B) having been simultaneously employed by two (2)
 7 employers, ~~he~~ leaves one (1) such employer voluntarily
 8 without good cause in connection with the work but remains
 9 in employment with the second employer with a reasonable
 10 expectation of continued employment; or
- 11 (C) ~~he~~ left to accept recall made by a base-period employer.
- 12 (2) An individual whose unemployment is the result of medically
 13 substantiated physical disability and who is involuntarily
 14 unemployed after having made reasonable efforts to maintain the
 15 employment relationship shall not be subject to disqualification
 16 under this section for such separation.
- 17 (3) An individual who left work to enter the armed forces of the
 18 United States shall not be subject to disqualification under this
 19 section for such leaving of work.
- 20 (4) An individual whose employment is terminated under the
 21 compulsory retirement provision of a collective bargaining
 22 agreement to which the employer is a party, or under any other
 23 plan, system, or program, public or private, providing for
 24 compulsory retirement and who is otherwise eligible shall not be
 25 deemed to have left ~~his~~ work voluntarily without good cause in
 26 connection with the work. However, if such individual
 27 subsequently becomes reemployed and thereafter voluntarily
 28 leaves work without good cause in connection with the work, ~~he~~
 29 **the individual** shall be deemed ineligible as outlined in this
 30 section.
- 31 (5) An otherwise eligible individual shall not be denied benefits
 32 for any week because ~~he~~ **the individual** is in training approved
 33 under Section 236(a)(1) of the Trade Act of 1974, nor shall the
 34 individual be denied benefits by reason of leaving work to enter
 35 such training, provided the work left is not suitable employment,
 36 or because of the application to any week in training of provisions
 37 in this law (or any applicable federal unemployment
 38 compensation law), relating to availability for work, active search
 39 for work, or refusal to accept work. For purposes of this
 40 subdivision, the term "suitable employment" means with respect
 41 to an individual, work of a substantially equal or higher skill level
 42 than the individual's past adversely affected employment (as

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defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's prior employment if:

(A) the prior employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual who:

(A) is on leave under 29 U.S.C. 2601; or

(B) has left employment from insured work for reasons that meet the criteria for family and medical leave under 29 U.S.C. 2612, but who is not eligible for leave under 29 U.S.C. 2601;

and is an applicant for family and medical leave unemployment compensation is not subject to disqualification under this section for that leave or separation from employment.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, if the individual cannot show good

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1 cause for absences or tardiness;
 2 (4) damaging the employer's property through willful negligence;
 3 (5) refusing to obey instructions;
 4 (6) reporting to work under the influence of alcohol or drugs or
 5 consuming alcohol or drugs on employer's premises during
 6 working hours;
 7 (7) conduct endangering safety of self or coworkers; or
 8 (8) incarceration in jail following conviction of a misdemeanor or
 9 felony by a court of competent jurisdiction or for any breach of
 10 duty in connection with work which is reasonably owed an
 11 employer by an employee.

12 SECTION 16. IC 22-4-15-2 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) With
 14 respect to benefit periods established on and after July 3, 1977, an
 15 individual is ineligible for waiting period or benefit rights, or extended
 16 benefit rights, if the department finds that, being totally, partially, or
 17 part-totally unemployed at the time when the work offer is effective or
 18 when the individual is directed to apply for work, the individual fails
 19 without good cause:

20 (1) to apply for available, suitable work when directed by the
 21 commissioner, the deputy, or an authorized representative of the
 22 department of workforce development or the United States
 23 training and employment service;

24 (2) to accept, at any time after the individual is notified of a
 25 separation, suitable work when found for and offered to the
 26 individual by the commissioner, the deputy, or an authorized
 27 representative of the department of workforce development or the
 28 United States training and employment service, or an employment
 29 unit; or

30 (3) to return to the individual's customary self-employment when
 31 directed by the commissioner or the deputy.

32 (b) With respect to benefit periods established on and after July 6,
 33 1980, the ineligibility shall continue for the week in which the failure
 34 occurs and until the individual earns remuneration in employment
 35 equal to or exceeding the weekly benefit amount of the individual's
 36 claim in each of eight (8) weeks. If the qualification amount has not
 37 been earned at the expiration of an individual's benefit period, the
 38 unearned amount shall be carried forward to an extended benefit period
 39 or to the benefit period of a subsequent claim.

40 (c) With respect to extended benefit periods established on and after
 41 July 5, 1981, the ineligibility shall continue for the week in which the
 42 failure occurs and until the individual earns remuneration in

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employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. When twenty-five percent (25%) of the maximum benefit amount, as initially determined, exceeds the unpaid balance remaining in the claim, such reduction shall be limited to the unpaid balance.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

- (1) the degree of risk involved to such individual's health, safety, and morals;
- (2) the individual's physical fitness and prior training and experience;
- (3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and
- (4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer ~~which that~~ is within the individual's prior training and experience and physical capacity to perform shall be considered to be suitable work unless the claimant has made a bona fide change in residence ~~which that~~ makes such offered work unsuitable to the individual because of the distance involved.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.
- (4) If as a condition of being employed the individual would be required to discontinue training into which the individual had



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entered with the approval of the department.

(5) If the individual has:

(A) applied for or is receiving family and medical leave unemployment compensation; and

(B) has not completed the twelve (12) weeks of eligibility for benefits allowed under IC 22-4-12-4.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1783, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, after line 42, begin a new paragraph and insert:

"SECTION 6. IC 22-4-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. "Employer" also means:

(a) Any employing unit whether or not an employing unit at the time of the acquisition which acquires the organization, trade, or business within this state of another which at the time of such acquisition is an employer subject to this article, and any employing unit whether or not an employing unit at the time of the acquisition which acquires substantially all the assets within this state of such an employer used in or in connection with the operation of such trade or business, if the acquisition of substantially all such assets of such trade or business results in or is used in the operation or continuance of an organization, trade, or business.

(b) Any employing unit (whether or not an employing unit at the time of acquisition) which acquires a distinct and segregable portion of the organization, trade, or business within this state of another employing unit which at the time of such acquisition is an employer subject to this article only if the employment experience of the disposing employing unit combined with the employment of its predecessor or predecessors would have qualified such employing unit under ~~IC 22-4-7-1~~ **section 1 of this chapter** if the portion acquired had constituted its entire organization, trade, or business and the acquisition results in the operation or continuance of an organization, trade, or business.

(c) Any employing unit which, having become an employer under ~~IC 22-4-7-1, 22-4-7-2(a), 22-4-7-2(b), 22-4-7-2(d), 22-4-7-2(f), or 22-4-7-2(h)~~, **section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter**, has not ceased to be an employer by compliance with the provisions of IC 22-4-9-2 and IC 22-4-9-3.

(d) For the effective period of its election pursuant to IC 22-4-9-4 or 22-4-9-5, any other employing unit which has elected to become fully subject to this article;

(e) Any employing unit for which service in employment as defined in IC 22-4-8-2(l) is performed. In determining whether an employing unit for which service other than agricultural labor is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or

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the employment of an employee performing service in agricultural labor after December 31, 1977, may not be taken into account. If an employing unit is determined an employer of agricultural labor, the employing unit shall be determined an employer for the purposes of section 1 of this chapter.

(f) Any employing unit not an employer by reason of any other paragraph of IC ~~22-4-7-2(a) through 22-4-7-2(e)~~ **section 2(a) through 2(e) of this chapter** inclusive, for which within either the current or preceding calendar year services in employment are or were performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; or which, as a condition for approval of this article for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be an "employer" under this article; however, an employing unit subject to contribution solely because of the terms of this subsection may file a written application to cover and insure his employees under the unemployment compensation law of another jurisdiction. Upon approval of such application by the board, the employing unit shall not be deemed to be an employer and such service shall not be deemed employment under this article.

(g) Any employing unit for which service in employment, as defined in IC 22-4-8-2(i) is performed after December 31, 1971 and subsequent to December 31, 1977, any employing unit for which service in employment is performed, as defined in IC 22-4-8-2(i)(1).

(h) Any employing unit for which service in employment, as defined in IC 22-4-8-2(j) is performed after December 31, 1971.

(i) Any employing unit for which service in employment as defined in IC 22-4-8-2(m) is performed. In determining whether an employing unit for which service other than domestic service is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or the employment of an employee performing domestic service after December 31, 1977, may not be taken into account.

(j) For purposes of entitlement to family and medical leave unemployment compensation, as set forth in IC 22-4-12-1(2), the term includes an employing unit engaged in commerce or in any industry or activity affecting commerce who employs fifty (50) or more employees for each working day during each of twenty (20) or more calendar workweeks in the current or preceding year. "

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to HB 1783 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 7, nays 3.

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